

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

3100 ARSENAL HOLDINGS, LLC,

Plaintiff,

v.

TREMCO INCORPORATED, *et al.*,

Defendants.

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No. 4:20-CV-424 RLW

ORDER

This matter is before the Court on Plaintiff's Motion to Strike Defendants' Motion for Summary Judgment. (ECF No. 46). After careful consideration, the Court will deny Plaintiff's motion.

On May 17, 2021, Plaintiff filed a motion to extend discovery and dispositive motion deadlines by 60 days. (ECF No. 33). Defendants filed their Motion for Summary Judgment on June 29, 2021 (ECF No. 43) in accordance with the Court's Case Management Order. (ECF No. 21). Plaintiff seeks to strike Defendants' Motion for Summary Judgment on the grounds that the Court has not yet ruled on Plaintiff's motion for extension and Plaintiff has been unable to conduct necessary depositions in this matter. The Court has since denied Plaintiff's motion for extension, noting that Plaintiff has had ample time to complete discovery.

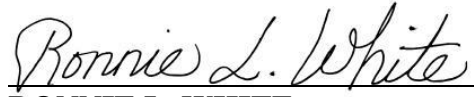
Under Rule 12(f), a court may "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f). "Only material included in a 'pleading' may be the subject of a motion to strike, and courts have been unwilling to construe the term broadly." 2 James W. Moore, et al., *Moore's Federal Practice* § 12.37[2] (2021). "Motions, briefs or memoranda, objections, or affidavits may not be attacked by the motion

to strike.” *Id.* This Court restricts the use of motions to strike to material contained in pleadings. *See, e.g., Metropolitan Cas. Ins. Co. v. Combs*, 2014 WL 988452, at *2 (E.D. Mo. Mar. 13, 2014) (amended motion to dismiss was not a pleading and could not be attacked with a motion to strike).

Defendants’ Motion for Summary Judgment is not a pleading and thus cannot be stricken under Rule 12(f). Even if it was a pleading, Plaintiff has not demonstrated that Defendants’ Motion for Summary Judgment is redundant, immaterial, impertinent, or scandalous. Plaintiff’s only basis for its motion is that it needs additional time to perform discovery. Plaintiff provides insufficient grounds to strike Defendants’ Motion for Summary Judgment. Therefore, the Court will deny Plaintiff’s Motion to Strike. Nothing in this Order, however, precludes Plaintiff from pursuing other avenues of relief, including those made available by Rule 56(d).

Accordingly,

IT IS HEREBY ORDERED that Defendants’ Motion to Strike (ECF No. 46) is **DENIED** **without prejudice.**


RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE

Dated this 2nd day of July, 2021.